

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: ,

DOCKET NUMBER: 97-02486

AUG 28 1998

COUNSEL: None

HEARING DESIRED: No

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APPLICANT REQUESTS THAT:

He be retired by reason of physical disability, rather than for length of service.

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APPLICANT CONTENDS THAT:

The reasons the applicant believes the records to be in error or unjust and the evidence submitted in support of the appeal are at Exhibit A.

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STATEMENT OF FACTS:

The relevant facts pertaining to this application, extracted from the applicant's military records, are contained in the letters prepared by the appropriate offices of the Air Force. Accordingly, there is no need to recite these facts in this Record of Proceedings.

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AIR FORCE EVALUATION:

The Chief, Medical Consultant, AFBCMR, reviewed this application and states that the applicant should have been placed on medical hold prior to his retirement, evaluated in the disability evaluation system, and found to be 100% disabled with inoperable lung cancer. He should then have received a medical retirement after completing his cancer treatment and, because of the advanced nature of his disease, should have been permanently retired with a disability rating of 100%. The medical consultant recommends this action be granted retroactive to 31 July 1997.

A complete copy of the Air Force evaluation is attached at Exhibit C.

The Chief, Disability Operations Branch, AFPC/DPPD, reviewed this application and states that the applicant has not submitted any material or documentation to show that he was unfit due to a physical disability under the laws and provisions of Title 10, USC, at the time of his service retirement.

A complete copy of the Air Force evaluation is attached at Exhibit D.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Complete copies of the Air Force evaluations were forwarded to the applicant on 15 June 1998, for review and response. As of this date, no response has been received by this office.

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THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Sufficient relevant evidence has been presented to demonstrate the existence of a probable error or injustice. In this respect, we note that the applicant retired for length of service on 1 August 1997. The Chief, Disability Operations Branch, states that the evidence of record does not provide sufficient documentation to justify a change in the record. We disagree. In this respect, we note that prior to the applicant's retirement he had a chest x-ray which showed evidence of pneumonia-like infiltrate in the left lung. Furthermore, subsequent studies were strongly suspicious for lung cancer. The Chief, Medical Consultant, states that the applicant should have been placed on medical hold, evaluated in the disability evaluation system and found to be 100% disabled with inoperable lung cancer. In view of the comments of the Chief, Medical Consultant, and given the evidence of record, we believe the applicant has overcome the presumption of fitness and was unfit for continued military service at the time of his length of service retirement. Therefore, we recommend his records be corrected to the extent indicated below.

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THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that:

a. On 30 July 1997, the diagnosis in his case was inoperable lung cancer, VASRD Code 6819, rated at 100%; that the disability is permanent; that the disability was not due to intentional misconduct or willful neglect; that the disability was not incurred during a period of national emergency; and that the disability was not received in line of duty as a direct result of armed conflict.

b. He was not relieved from active duty on 31 July 1997 and retired for length of service on 1 August 1997, but on 1 August 1997 he was permanently retired by reason of physical disability with a compensable disability rating of 100%.

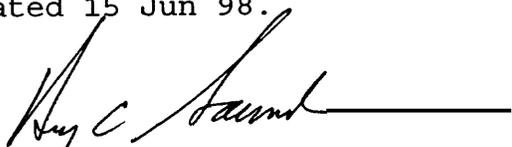
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The following members of the Board considered this application in Executive Session on 18 August 1998, under the provisions of AFI 36-2602:

Mr. Henry C. Saunders, Panel Chair  
Mr. Dana J. Gilmour, Member  
Ms. Ann L. Heidig, Member

All members voted to correct the records, as recommended. The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 12 Aug 97, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, BCMR Medical Consultant, dated 14 Apr 98.
- Exhibit D. Letter, AFPC/DPPD, dated 20 May 98.
- Exhibit E. Letter, Applicant, dated 15 Jun 98.

  
HENRY C. SAUNDERS  
Panel Chair



DEPARTMENT OF THE AIR FORCE  
WASHINGTON, D. C.

Office of the Assistant Secretary

AUG 28 1998

AFBCMR 97-02486 ,

MEMORANDUM FOR THE CHIEF OF STAFF

Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section, 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED] be corrected to show that:

a. On 30 July 1997, the diagnosis in his case was inoperable lung cancer, VASRD Code 6819, rated at 100%; that the disability is permanent; that the disability was not due to intentional misconduct or willful neglect; that the disability was not incurred during a period of national emergency; and that the disability was not received in line of duty as a direct result of armed conflict.

b. He was not relieved from active duty on 31 July 1997 and retired for length of service on 1 August 1997, but on 1 August 1997 he was permanently retired by reason of physical disability with a compensable disability rating of 100%.

  
JOE GLINEBERGER  
Director  
Air Force Review Boards Agency